

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 11319 of 2004

Between:

Toddy Tappers Co-Op. Society Walkertown,
Walkertown, Sec'bad, Hyderabad Dist.,
Rep by its President Mr.M.Suresh Kumar.

..... PETITIONER

AND

- 1 The Proh. & Excise Superintendent, Hyderabad Dist. at Hyderabad.
- 2 The Proh. & Excise Inspector, SHO, Excise Station,

Musheerabad, Hyd.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus, or any other appropriate writ, order or direction, declaring the action of the respondents in demanding the rentals from 08/12/03 to 15/12/03 amounting to Rs.1,62,222/- vide Cr.No.B1/297/2004/P&ESH, Dt.16/06/04 after the cancellation of licences of walkertown and chilakalaguda Toddy Shops is illegal, arbitrary, unjust, without jurisdiction and ultravires and set aside the same and further grant stay of collection of rentals of Rs.1,62,222/- for the period 08/12/03 to 15/12/03 i.e., after the cancellation of licences of Walkertown and chilakalaguda Toddy Shops and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.AMARNATH GOUD THODUPUNURI

Counsel for the Respondent Nos: GP FOR PROHIBITION & EXCISE

The Court made the following :

ORDER:

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The Toddy Tappers Cooperative Society, Walkertown, Secunderabad, assails the show cause notice issued by the second respondent on 16.06.2004. Be it noted, by the impugned show cause notice the second respondent directed the President to remit a sum of Rs.32,89,438/- being monthly rentals for the months of December 2003, March 2004 to June 2004. The petitioner is aggrieved by the demand of rental for the month of December 2003 in a sum of Rs.1,62,222/-.

Though various grounds are urged by the learned counsel for the petitioner and strenuous submissions are made by the learned Assistant Government Pleader in support of the impugned show cause notice, having regard to the provisions of 63(1) of the Andhra Pradesh Excise Act, 1968, this Court is not inclined to go into the merits of the case. Under the said provision, the petitioner has an effective alternative remedy by way of an appeal before the jurisdictional Deputy Commissioner, Hyderabad. The petitioner is given liberty to file an appeal and also move an application for appropriate interim orders. To enable the petitioner to move the Deputy Commissioner by way of an appeal and also an application for stay, it would be appropriate to allow the interim orders passed by this Court to be in force for a period of four weeks or till such time the Deputy Commissioner disposes of the application for interim stay, whichever is earlier. There shall be an order in the above terms. The petitioner may present appeal before the Deputy Commissioner within a period of one week from the date of receipt of a copy of this order and also move an application for stay. Till then, there shall be stay as indicated hereinabove.

The writ petition is accordingly disposed of. No costs.

(V.V.S.RAO, J)

21.06.2005

vs

To

1 The Proh. & Excise Superintendent, Hyderabad Dist. at Hyderabad.

2 The Proh. & Excise Inspector, SHO, Excise Station,

Musheerabad, Hyd.

3 Two CCs to the G.P For Prohibition and Excise, High Court of A.P.,

Hyderabad.(O.U.T).

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